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HOUSE BILL 721

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Irvin Harrison

AN ACT

RELATING TO NUTRITION; CREATING A NUTRITION COUNCIL; PROVIDING DUTIES; CREATING A FUND; REQUIRING NUTRITION AND HEALTH COURSES IN PUBLIC SCHOOLS; REQUIRING NUTRITION EDUCATION FOR CERTAIN LICENSED PRACTITIONERS; REQUIRING STUDIES; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Nutrition Council Act".

Section 2. ~~[NEW MATERIAL]~~ FINDINGS AND PURPOSE.--

A. The legislature finds that federal authorities have not intended to or expressed an intention to occupy and preempt the areas of nutrition addressed in the Nutrition Council Act and, therefore, the legislature may create a

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1 nutrition council to make recommendations to protect and ensure
2 public health and safety for all New Mexicans.

3 B. The purpose of the Nutrition Council Act is to
4 improve the quality of food grown in, produced in or imported
5 into New Mexico or exported from New Mexico and to educate New
6 Mexico citizens in good nutritional choices.

7 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
8 Nutrition Council Act:

9 A. "council" means the nutrition council; and

10 B. "director" means the director of the council.

11 Section 4. [NEW MATERIAL] NUTRITION COUNCIL--CREATED--
12 MEMBERSHIP.--

13 A. The "nutrition council" is created, composed of
14 the following members:

15 (1) the assistant attorney general for
16 consumer protection or the assistant attorney general's
17 designee;

18 (2) the secretary of public education or the
19 secretary's designee;

20 (3) the secretary of health or the secretary's
21 designee; and

22 (4) the following members appointed by the
23 governor, who serves at the pleasure of the governor:

24 (a) one pediatrician;

25 (b) one internist or family

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1 practitioner;

2 (c) one cardiologist;

3 (d) one toxicologist;

4 (e) one doctorate-level biochemist;

5 (f) one licensed nutritionist;

6 (g) one farmer;

7 (h) one rancher;

8 (i) one faculty member of the university
9 of New Mexico school of medicine;

10 (j) one dentist; and

11 (k) one public member who is appointed
12 on the basis of active involvement in the area of nutrition.

13 B. Members of the council who are not paid by
14 taxpayer funds may receive per diem and mileage expenses
15 pursuant to the Per Diem and Mileage Act, but shall receive no
16 other compensation, perquisite or allowance.

17 C. The council shall annually elect a chair and
18 vice chair. The council shall meet at the call of the chair, a
19 majority of the members or the director. The director shall
20 serve as staff to the council.

21 D. The council is administratively attached to the
22 department of health.

23 Section 5. [NEW MATERIAL] COUNCIL--DUTIES.--The council
24 shall:

25 A. study ways to improve the operations of state

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1 government relating to nutrition programs and to the provision
2 of nutrition services to the residents of the state;

3 B. recommend courses of instruction and practical
4 training for employees of departments and other persons
5 involved in the administration of state nutrition programs with
6 the objective of improving the operations and efficiency of the
7 administration;

8 C. develop nutrition education programs for food
9 stamp recipients;

10 D. in consultation with nutrition experts and the
11 appropriate state agencies, recommend nutrition programs,
12 public education programs and campaigns on health, nutrition
13 and ideal weight maintenance for all state institutions and
14 public schools, colleges and universities;

15 E. consult with the university of New Mexico school
16 of medicine to ensure that its nutrition curricula train
17 medical students in basic nutrition and how to prevent and
18 treat nutritional diseases;

19 F. recommend the development and implementation of
20 nutrition and food safety programs to ensure the nutritional
21 health of New Mexico residents and the safety of their food;

22 G. advise the appropriate departments, including
23 the office of the attorney general, on areas of concern such
24 as:

25 (1) the effect of food additives, specifically

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1 carcinogens and neurotoxins, on the health of all New Mexicans,
2 particularly on pregnant women, neonates and preschool-age
3 children;

4 (2) the incidence of diabetes on Indian
5 pueblos and reservations;

6 (3) the effects of food-induced hyperactivity
7 and attention deficit disorders in children resulting from
8 their ingestion of monosodium glutamate and excitotoxins;

9 (4) obesity in all age groups; and

10 (5) other areas deemed important by the
11 council;

12 H. make recommendations on ways to improve
13 nutrition in New Mexico;

14 I. assist the appropriate agencies in developing
15 educational materials on nutrition and on toxic or potentially
16 toxic additives to foods and processes that result in food
17 toxicity;

18 J. through the public education department, advise
19 public school districts on the development of nutrition courses
20 that are grade specific and that use texts in the field of
21 nutrition, preventive cardiology, preventive oncology and
22 preventive toxicology for New Mexico secondary school students;

23 K. develop a nutrition questionnaire to be sent to
24 every student in New Mexico that will be used to build a
25 statewide nutrition database;

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1 L. review the quality of public school lunch
2 programs and make recommendation to the secretary of public
3 education to improve the sources of food for the school lunch
4 program; and

5 M. within available appropriations, hire an
6 executive director and such other employees as are necessary to
7 carry out the provisions of the Nutrition Council Act.

8 Section 6. [NEW MATERIAL] DIRECTOR OF COUNCIL--DUTIES.--

9 A. The director shall, at the direction of the
10 council:

11 (1) review and report on state agency efforts
12 to improve nutrition and food safety; and

13 (2) serve as a liaison with other state
14 agencies, including the department of health, the children,
15 youth and families department and the public education
16 department, in recommending the development and implementation
17 of nutrition and food safety programs.

18 B. The director shall recommend to the council a
19 list of foods, food additives or food processes that the
20 council should consider to determine if additional labeling
21 should be required because of carcinogens, neurotoxins or other
22 deleterious compounds. If the council determines additional
23 labeling should be required, it shall recommend the appropriate
24 labeling and recommend that such labeling be reflected in the
25 nutrition and food safety standards.

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1 C. The director shall recommend to the council the
2 appointment and compensation of such employees as may be
3 necessary to carry out the provisions of the Nutrition Council
4 Act within the appropriations made by the legislature.

5 Section 7. [NEW MATERIAL] FUND CREATED.--The "nutrition
6 fund" is created in the state treasury. The fund shall consist
7 of appropriations, gifts, grants, donations and bequests.
8 Money in the fund shall not be transferred to any other fund at
9 the end of a fiscal year. Money in the fund is appropriated to
10 the board of regents of the university of New Mexico for the
11 school of medicine for nutrition and health-related research
12 and education. Expenditures shall be made on warrant of the
13 secretary of finance and administration on vouchers signed by
14 the dean of the university of New Mexico school of medicine.

15 Section 8. A new section of the Public School Code is
16 enacted to read:

17 "[NEW MATERIAL] NUTRITION AND HEALTH COURSES.--The
18 secretary shall adopt and promulgate minimum standards and
19 benchmarks for grade-specific nutrition and health courses."

20 Section 9. Section 22-13-1 NMSA 1978 (being Laws 2003,
21 Chapter 153, Section 57) is amended to read:

22 "22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
23 REQUIRED--ACCREDITATION.--

24 A. The [~~state board~~] department shall require
25 public schools to address [~~state board-approved~~] department-

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1 approved academic content and performance standards when
2 instructing in specific [~~state board required~~] department-
3 required subject areas as provided in this section. A public
4 school or school district failing to meet these minimum
5 requirements shall not be accredited by the [~~state board~~]
6 department.

7 B. All first, second and third grade classes shall
8 provide daily instruction in reading and language arts skills,
9 including phonemic awareness, phonics and comprehension, and in
10 mathematics.

11 C. All first, second and third grade classes shall
12 provide instruction in art, music and a language other than
13 English.

14 D. In fourth through eighth grades, instruction
15 that meets academic content and performance standards shall be
16 provided in the following subject areas:

17 (1) reading and language arts skills, with an
18 emphasis on writing and editing for at least one year and an
19 emphasis on grammar and writing for at least one year;

20 (2) mathematics;

21 (3) language other than English;

22 (4) communication skills;

23 (5) science;

24 (6) art;

25 (7) music;

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- 1 (8) social studies;
- 2 (9) New Mexico history;
- 3 (10) United States history;
- 4 (11) geography; [~~and~~]
- 5 (12) physical fitness; and
- 6 (13) nutrition and health.

7 E. In fourth through eighth grades, school
8 districts shall offer electives that contribute to academic
9 growth and skill development and provide career and technical
10 education."

11 Section 10. Section 22-13-1.1 NMSA 1978 (being Laws 1986,
12 Chapter 33, Section 5, as amended) is amended to read:

13 "22-13-1.1. GRADUATION REQUIREMENTS.--

14 A. At the end of grades eight through eleven, each
15 student shall prepare an interim next-step plan that sets forth
16 the coursework for the grades remaining until high school
17 graduation. Each year's plan shall explain any differences
18 from previous interim next-step plans, shall be filed with the
19 principal of the student's high school and shall be signed by
20 the student, the student's parent [~~or guardian~~] and the
21 student's guidance counselor or other school official charged
22 with coursework planning for the student.

23 B. Each student must complete a final next-step
24 plan during the senior year and prior to graduation. The plan
25 shall be filed with the principal of the student's high school

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1 and shall be signed by the student, the student's parent [~~or~~
2 ~~guardian~~] and the student's guidance counselor or other school
3 official charged with coursework planning for the student.

4 C. An individualized education program that meets
5 the requirements of Subsections A and B of this section and
6 that meets all applicable transition and procedural
7 requirements of the federal Individuals with Disabilities
8 Education Act for a student with a disability shall satisfy the
9 next-step plan requirements of this section for that student.

10 D. A local school board shall ensure that each high
11 school student has the opportunity to develop a next-step plan
12 and is reasonably informed about:

13 (1) curricular and course options;

14 (2) opportunities available that lead to
15 different post-high-school options; and

16 (3) alternative opportunities available if the
17 student does not finish a planned curriculum.

18 E. The secretary [~~of public education~~] shall:

19 (1) establish specific accountability
20 standards for administrators, counselors, teachers and school
21 district staff to ensure that every student has the opportunity
22 to develop a next-step plan;

23 (2) promulgate rules for accredited private
24 schools in order to ensure substantial compliance with the
25 provisions of this section;

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1 (3) monitor compliance with the requirements
2 of this section; and

3 (4) compile such information as is necessary
4 to evaluate the success of next-step plans and report annually,
5 by December 15, to the legislative education study committee
6 and the governor.

7 F. Successful completion of a minimum of [~~twenty-~~
8 ~~three~~] twenty-four units aligned to the state academic content
9 and performance standards shall be required for graduation.

10 These units shall be as follows:

11 (1) four units in English, with major emphasis
12 on grammar and literature;

13 (2) three units in mathematics, at least one
14 of which is equivalent to the algebra 1 level or higher;

15 (3) two units in science, one of which shall
16 have a laboratory component; provided, however, that with
17 students entering the ninth grade beginning in the 2005-2006
18 school year, three units in science shall be required, one of
19 which shall have a laboratory component;

20 (4) three units in social science, which shall
21 include United States history and geography, world history and
22 geography and government and economics;

23 (5) one unit in physical education or other
24 physical activity;

25 (6) one unit in communication skills or

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1 business education, with a major emphasis on writing and
2 speaking and that may include a language other than English;
3 [~~and~~]

4 (7) one unit in nutrition and health; and
5 [~~(7)~~] (8) nine elective units and eight
6 elective units for students entering the ninth grade in the
7 2005-2006 school year that meet [~~state board~~] department
8 content and performance standards. Student service learning
9 shall be offered as an elective.

10 G. The department shall establish a procedure for
11 students to be awarded credit through completion of specified
12 career technical education courses for certain graduation
13 requirements.

14 H. Final examinations shall be administered to all
15 students in all classes offered for credit.

16 I. A student shall not receive a high school
17 diploma who has not passed a state graduation examination in
18 the subject areas of reading, English, [~~math~~] mathematics,
19 writing, science and social science. The state graduation
20 examination on social science shall include a section on the
21 constitution of the United States and the constitution of New
22 Mexico. If a student exits from the school system at the end
23 of grade twelve without having passed a state graduation
24 examination, [~~he~~] the student shall receive an appropriate
25 state certificate indicating the number of credits earned and

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1 the grade completed. If within five years after a student
2 exits from the school system [~~he~~] the student takes and passes
3 the state graduation examination, [~~he~~] the student may receive
4 a high school diploma.

5 J. As used in this section:

6 (1) "final next-step plan" means a next-step
7 plan that shows that the student has committed or intends to
8 commit in the near future to a four-year college or university,
9 a two-year college, a trade or vocational program, an
10 internship or apprenticeship, military service or a job;

11 (2) "interim next-step plan" means an annual
12 next-step plan in which the student specifies post-high-school
13 goals and sets forth the coursework that will allow the student
14 to achieve those goals; and

15 (3) "next-step plan" means an annual personal
16 written plan of studies developed by a student in a public
17 school or other state-supported school or institution in
18 consultation with the student's parent [~~or guardian~~] and school
19 counselor or other school official charged with coursework
20 planning for the student.

21 K. The secretary [~~of public education~~] may
22 establish a policy to provide for administrative
23 interpretations to clarify curricular and testing provisions of
24 the Public School Code."

25 Section 11. A new section of the Nursing Practice Act is

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1 enacted to read:

2 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
3 shall establish by rule requirements for mandatory nutrition
4 education for certified nurse practitioners and clinical nurse
5 specialists."

6 Section 12. A new section of the Dental Health Care Act
7 is enacted to read:

8 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
9 shall establish by rule requirements for mandatory nutrition
10 education for dentists."

11 Section 13. A new section of the Medical Practice Act is
12 enacted to read:

13 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
14 shall establish by rule requirements for mandatory nutrition
15 education for physicians and physician assistants."

16 Section 14. A new section of the Professional
17 Psychologist Act is enacted to read:

18 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
19 shall establish by rule requirements for mandatory nutrition
20 education for psychologists."

21 Section 15. A new section of the Counseling and Therapy
22 Practice Act is enacted to read:

23 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
24 shall establish by rule requirements for mandatory nutrition
25 education for counselors and therapists."

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1 Section 16. A new section of Chapter 61, Article 10 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
4 of osteopathic medical examiners shall establish by rule
5 requirements for mandatory nutrition education for osteopathic
6 physicians."

7 Section 17. TEMPORARY PROVISION--UNIVERSITY OF NEW MEXICO
8 SCHOOL OF MEDICINE FOOD ADDITIVES AND PESTICIDES STUDIES.--The
9 obstetrics, neonatology and pediatrics departments of the
10 university of New Mexico school of medicine shall conduct a
11 study on the precise medical effects of food additives on
12 pregnant women, fetuses and children under the age of five and
13 a study on the medical effects of living near or working in
14 fields of farms spraying pesticides, herbicides and
15 insecticides.

16 Section 18. APPROPRIATIONS.--

17 A. Two hundred fifty thousand dollars (\$250,000) is
18 appropriated from the general fund to the nutrition council for
19 expenditure in fiscal year 2006 for staff, equipment,
20 furnishings and other expenses to implement the Nutrition
21 Council Act. Any unexpended or unencumbered balance remaining
22 at the end of fiscal year 2006 shall revert to the nutrition
23 fund.

24 B. Three hundred thousand dollars (\$300,000) is
25 appropriated from the general fund to the public education

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1 department for expenditure in fiscal years 2006 and 2007 to
2 employ nutritionists to assist school districts in the public
3 schools and to carry out the provisions of this act. Any
4 unexpended or unencumbered balance remaining at the end of
5 fiscal year 2007 shall revert to the nutrition fund.

6 C. Two hundred thousand dollars (\$200,000) is
7 appropriated from the general fund to the board of regents of
8 the university of New Mexico for expenditure in fiscal years
9 2006 through 2008 to perform the studies provided for in
10 Section 17 of this act. Any unexpended or unencumbered balance
11 remaining at the end of fiscal year 2008 shall revert to the
12 nutrition fund.